

Message Text

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ACTION EUR-12

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FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC IMMEDIATE 2171

C O N F I D E N T I A L OTTAWA 0200

FOR EUR/CAN - MR. ROUSE

E.O. 11652: GDS

TAGS: SENV, PBOR, EFIS, CA

SUBJ: MARITIME BOUNDARY AND FISHERY NEGOTIATIONS

REF: STATE 12320

1. SUMMARY: AMBASSADOR MET AGAIN WITH EXTAFF UNDER-
SECRETARY ROBINSON, COPITHORNE, NUTT AND LEGER
MORNING OF JANUARY 19. MEETING RESULTED IN DEVELOPMENT
OF DRAFT LIST OF AGREED POINTS WITHOUT COMMITMENT ON
EITHER SIDE. PARTICIPANTS AGREED TO REFLECT ON DRAFT
AND MEET AGAIN, PROBABLY ON JANUARY 20. DRAFT TEXT
IS IN PARA 2 BELOW AND INTERPRETATIVE COMMENTS IN
FOLLOWING PARAGRAPHS. WOULD APPRECIATE DEPARTMENT'S
COMMENTS AND SUGGESTIONS ASAP. END SUMMARY.

2. FOLLOWING IS DRAFT TEXT OF "AGREED POINTS:"

(1) THE TWO COUNTRIES WILL ENDEAVOR TO CONCLUDE A SHORT-
TERM FISHERIES AGREEMENT, TO EXPIRE ON DECEMBER 31, 1977.

(2) INTERIM ARRANGEMENTS WILL BE CONTINUED BEYOND
DECEMBER 31, 1977, ONLY IF A PERMANENT BOUNDARY
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SETTLEMENT IN THE GULF OF MAINE AND, AS APPROPRIATE
IN OTHER AREAS, HAS NOT BEEN ACHIEVED BY THAT DATE
AND ONLY IF THE MATTER IS BEING REFERRED TO AN AGREED
PROCESS OF THIRD PARTY SETTLEMENT.

(3) THE SHORT-TERM FISHERIES AGREEMENT MAY CONTAIN AN
APPROPRIATE DISCLAIMER TO PROTECT THE BOUNDARY POSITIONS

OF THE TWO COUNTRIES.

(4) IF THE TWO COUNTRIES DO NOT REACH AGREEMENT ON A GULF OF MAINE MARITIME BOUNDARY BY DECEMBER 31, 1977 THEY WILL SUBMIT THE BOUNDARY ISSUE TO CONCLUSIVE THIRD PARTY SETTLEMENT.

(5) DISCUSSION OF THE PROCESS OF THIRD PARTY SETTLEMENT AND THE BOUNDARY AREAS TO WHICH THIS PROCESS WILL APPLY WILL BE INITIATED BY MID-FEBRUARY.

(6) THE TWO COUNTRIES WILL ENDEAVOR TO NEGOTIATE DURING 1977 A LONG-TERM REGIME FOR THE GULF OF MAINE AND OTHER AREAS AS APPROPRIATE. IN THE COURSE OF THESE NEGOTIATIONS FOUR ELEMENTS WILL BE ADDRESS: BOUNDARIES, LONG-TERM FISHERIES, LONG-TERM HYDROCARBONS, AND MARINE POLLUTION, INCLUDING HOW THE FOUR ELEMENTS ARE RELATED, HOW THESE ELEMENTS ARE TO BE TREATED, AND WHETHER THE TREATMENT WILL BE SIMILAR FOR THE VARIOUS BOUNDARY AREAS.

(7) NEGOTIATIONS FOR THE LONG-TERM FISHERIES ARRANGEMENTS WILL RESUME PROMPTLY ON COMPLETION BY BOTH COUNTRIES OF INTERNAL PROCEDURES FOR APPROVAL OF THE SHORT-TERM FISHERIES AGREEMENT. NEGOTIATIONS ON BOUNDARIES AND THE RELATED LONG-TERM HYDROCARBON AND POLLUTION CONTROL QUESTIONS WILL RESUME IN LATE FEBRUARY OR EARLY MARCH OR IN ANY EVENT NOT LATER THAN THE RESUMPTION OF LONG-TERM FISHERIES NEGOTIATIONS.

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(8) IN THE LONG-TERM RESOURCE NEGOTIATIONS, THE QUESTION OF COOPERATIVE ARRANGEMENTS WILL BE CONSIDERED. (END TEXT).

3. AMBASSADOR MADE CLEAR THAT PHRASE "INTERIM ARRANGEMENTS WILL BE CONTINUED" IN (2) GOES BEYOND HIS INSTRUCTIONS WHICH CALL FOR LANGUAGE SUCH AS "WOULD NOT BE EXCLUDED." THE SECOND "ONLY IF" CLAUSE WHICH CANADIANS ACCEPTED TIES CONTINUATION IN WITH THIRD PARTY SETTLEMENT, HOWEVER, AND AMBASSADOR RECOMMENDS DEPARTMENT ACCEPT "WILL BE CONTINUED" IF REST OF DOCUMENT PROVES SATISFACTORY. ACCEPTANCE WILL PROBABLY BE NECESSARY COUNTERPART OF CANADIAN ACCEPTANCE OF REFERENCE TO CONCLUSIVE THIRD PARTY SETTLEMENT.

4. PARTICIPANTS AGREED THAT "INTERIM ARRANGEMENTS" REFERRED TO IN (2) COULD DIFFER FROM SHORT-TERM FISHERIES AGREEMENT. THIS WOULD BE SUBJECT TO NEGOTIATION.

5. ROBINSON SAID HE WAS CONCERNED ABOUT SPECIFIC REFERENCE TO GULF OF MAINE IN (2), (4), AND (6) AND WOULD HAVE TO REFLECT ON THIS. HE EMPHASIZED THAT HIS CONCERN WAS POLITICAL, NOT SUBSTANTIVE. AN AGREED DOCUMENT MAY BECOME PUBLIC AND HE DOES NOT WANT TO BE ACCUSED, FOR EXAMPLE, OF "SELLING OUT" BRITISH COLUMBIA INTERESTS.

6. CANADIANS SAID "DISCLAIMER" IN (3) IS A TERM WHICH IS LESS COMMONLY USED IN CANADA THAN IN THE U.S. AND SUGGESTED THAT, AFTER REFLECTION, THEY MAY WISH TO SUBSTITUTE A PHRASE SUCH AS "A NON-PREJUDICE CLAUSE."

7. "CONCLUSIVE" IN (4) WOULD REQUIRE BINDING RESULT BUT LEAVES DOOR OPEN FOR CANADIANS TO ARGUE FOR MEDIATION OR ARBITRATION AS STEPS IN PROCESS. THERE WOULD, OF COURSE, HAVE TO BE MUTUAL AGREEMENT TO PURSUE MEDIATION ON CONFIDENTIAL

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ARBITRATION.

8. RE (6), CANADIANS INITIALLY PROPOSED INCLUSION OF SENTENCE "NEGOTIATIONS FOR LONG-TERM RESOURCE AND POLLUTION CONTROL ARRANGEMENTS WILL BE CONDUCTED IN CONJUNCTION WITH THE BOUNDARY NEGOTIATIONS." THIS DROPPED OUT DURING DISCUSSION BUT ROBINSON CAME BACK TO IT LATER AND SAID HE WOULD HAVE TO RESERVE POSSIBILITY OF REINTRODUCING "IN CONJUNCTION" CONCEPT.

9. CANADIANS INITIALLY PROPOSED THE PHRASE "COOPERATIVE MANAGEMENT" IN (8) WHICH THEY THOUGHT MET U.S. CONCERN ABOUT USE OF "JOINT MANAGEMENT." AFTER DISCUSSION, THEY INDICATED WILLINGNESS TO ACCEPT "COOPERATIVE ARRANGEMENTS." THIS GENERALIZES THE PHRASE SIGNIFICANTLY. DOES THE DEPARTMENT CONSIDER IT GENERAL ENOUGH?

10. AMBASSADOR ASKED WHETHER CANADIANS COULD AGREE THAT BOTH SIDES SHOULD COME FORWARD WITH COMPROMISE PROPOSALS IN BOTH THE BOUNDARY AND LONG-TERM FISHERIES NEGOTIATIONS. ROBINSON SAID HE HAD NOT FOCUSED ON QUESTION. CANADIANS AGREED TO REFLECT AND RESPOND.

11. AMBASSADOR EMPHASIZED THAT U.S. ACCEPTANCE OF ANY TEXT WOULD REQUIRE DEPARTMENT'S APPROVAL. DRAFT WORKED OUT AT MEETING HAD NO STATUS AND COULD NOT RPT NOT BE CONSIDERED EVEN AS AD REFERENDUM DOCUMENT. HE SAID, HOWEVER, THAT HE WOULD SEEK DEPARTMENT'S REACTIONS.

12. AMBASSADOR DEPARTED FOR TORONTO IMMEDIATELY AFTER

MEETING. THIS CABLE IS BASED ON DISCUSSION WITH HIM
ENROUTE TO AIRPORT BUT HE HAS NOT SEEN THE TEXT.
ENDERS

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Message Attributes

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